IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Bail Appl..No. 4625 of 2007()

CC.476/2003 of J.M.F.C.-I,PALAKKAD
.....

PETITIONER/ACCUSED

MUHAMMED ALI, S/O ABOOBACKER HAJI,
AGED 32 YEARS, PERUVANKUZHIYIL HOUSE,
KAKKAD P.O., THIROORANGADI, MALAPPURAM DISTRICT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA, THROUGH THE
SUB INSPECTOR OF POLICE, KASABA POLICE STATION,
PALAKKAD, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY ADV. SRI. JAI GEORGE, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4625 of 2007

Dated this the 31st day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 5th accused. He faces allegations under the provisions of the Arms Act. He is the 5th accused. Altogether there are 5 accused persons. Some of the co-accused have already been tried, found not guilty and acquitted. The petitioner was not available for trial and the case against him has been split up. Warrant of arrest against the petitioner has been issued by the learned Magistrate. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that there is no specific allegation that the petitioner was in possession of any arm. The allegation is that the petitioner is guilty of conspiracy and in pursuance of the conspiracy, some of the other accused persons were in possession of the arms in question. The learned counsel for the petitioner, in these circumstances, prays that directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

3. The application is opposed by the learned Public Prosecutor. I find merit in that opposition. In the circumstances to which I have briefly referred to earlier, I am satisfied that this is an

eminently fit case where the petitioner must be directed to appear before the learned Magistrate in the pending case and seek regular bail in the ordinary course.

4. In the result, this application for anticipatory bail is, allowed in part. The following directions are issued.

i) The warrant of arrest issued against the petitioner shall not be executed till 07.08.07;

ii) The petitioner's application for regular bail, if preferred after giving sufficient prior notice to the Prosecutor in charge of the case, shall be considered on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-